

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3396 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

A S SHAH

Versus

STATE OF GUJARAT

Appearance:

MR PK JANI for Petitioners
MR MA BUKHARI AGP instructed by M/S PATEL ADVOCATES,
SOLICITORS for Respondents

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 21/07/2000

ORAL JUDGEMENT

1. By means of filing this petition under Article 226 of the Constitution of India, petitioners who are working under the E.S.I. Scheme of the Government of Gujarat, under the apprehension that they may not be

considered and promoted to the promotional posts, have sought direction to the respondents to consider their case and give promotion to them to the posts of Administrative Officer from the dates on which the said higher posts had fallen vacant.

2. It is the case of the petitioners that they were appointed as Junior Clerk under the said Scheme and were promoted to the post of Senior Clerk and thereafter promoted to the post of Senior Assistant and again promoted to the post of Office Superintendent and when the petition was filed they were working as such. It is also the case of the petitioners that petitioner No.4 belongs to Scheduled caste and as per roster he is entitled to promotion. According to the say of the petitioners they are senior most Office Superintendents as per the seniority list published in March 1984. It is also the case of the petitioners that in addition to their duties as Office Superintendents they have also worked as Administrative Officers as and when occasion had arisen. On the apprehension of the petitioners that they may not be promoted to the post of Administrative Officer they have filed the petition for the reliefs to which reference has been made hereinabove.

3. At the time of admission of the petition interim relief was refused.

4. Today when the matter was called out, Mr. P.K. Jani, learned advocate for the petitioners, appeared and submitted that after the matter was admitted the petitioners have taken away the papers from him and since then he could not contact them and, therefore, he expressed his inability to point out as to whether the petitioners have been promoted to the posts in question or not and as to what has happened in the matter after it was admitted by this Court. He, therefore, requested that the petition may be disposed of by passing appropriate order reserving liberty to revive the petition in case of difficulty in future.

5. Mr. M.A. Bukhari, learned AGP also could not point out as to whether the petitioners have been promoted to the posts in question pursuant to the issuance of the rule in this petition. However, he stated that he has no objection if the petition is disposed of by passing appropriate order reserving liberty to revive the petition in case of difficulty in future.

6. In view of the aforesaid state of affairs and

more particularly in view of the fact that Mr. Jani, learned advocate for the petitioners, has no further instruction in the matter, the petition merits rejection by reserving liberty to revive the petition in case of difficulty in future. Accordingly, the petition is rejected with liberty to revive the petition in case of difficulty. Rule is discharged with no order as to costs.

21.7.2000. (A.M. Kapadia, J.)

(karan)